UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,998	04/03/2001	Thomas P. Mulligan	5298-05300	3580

35617   7590   04/06/2007
DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN, TX 78768

EXAMINER
VU, KIEU D

ART UNIT	PAPER NUMBER
2173	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 January 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is responsive to the Amendment filed on 01/18/07.

2.   Claims 1-21 are pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-4, 8-9, 12, and 14-21 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Martin (USP 6438746) and Bates et al ("Bates", USP 6865713).

Regarding claim 1, Martin teaches a method for generating computer executable

code, comprising creating a data set (1000b) and inserting the data set into an

applications program to form the computer executable code (col 2, lines 14-24; col 12,

lines 57-60). Martin differs from the claim in that Martin does not teach the data set is

created by modifying a comments portion of a program by activating a user-selectable

link embedded within the comments portion. However, such feature is known in the art

as taught by Bates. Bates teaches a method for annotating a hypertext document with

comments (col. 3, lines 16-32). Bates further teaches that the comment (text) includes a

link word that can be modified by an on-screen pointer (col 8, lines 1-13) (Fig. 3-4) and

further teaches the data set is created by modifying a comments portion of a program

by activating a user-selectable link embedded within the comments portion (Fig. 6-7)

(col. 11, lines 20-27, lines 39-48). It would have been obvious to one of ordinary skill in

the art, having the teaching of Martin and Bates before him at the time the invention was

made, to modify the program generating system taught by Martin to include the teaching

that the data set is created by modifying a comments portion of a program taught by

Bates with the motivation being to generate code from the comment portions when

necessary.

Regarding claims 2 and 19, Martin and Bates teach the displaying a link within a

line of text preceded by a comments designator (Martin, symbol "//" in Fig. 9; col 7, lines

34-39) (Bates, col 8, lines 1-13) (Fig. 3-4).

Regarding claims 3 and 18, Martin teaches the displaying a window containing

the comments portion and the data set (part 1000b in Fig. 9).

Regarding claim 4, Martin teaches an on-screen pointer and a pointer device (col

4, lines 39-49).

Regarding claim 8, Martin teaches method comprising a first text preceded by a

comments designator (part 1000b in Fig. 9) and succeeded by link symbol (link word)

("=", col 10, lines 9-16) (col 5, lines 51-60) and a second text displayed on a display

device for presenting a data set that changes dependent on modification to the link

symbol by modification of the data set (Fig. 9). Martin differs from the claim in that

Martin does not teach that the comments designator may be succeeded by a link word

is adapted for modification by an on-screen pointer. However, such feature is known in

the art as taught by Bates. Bates teaches a method for annotating a hypertext

document with comments (col. 3, lines 16-32). Bates further teaches that the comment

(text) includes a link word that can be modified by an on-screen pointer (col 8, lines 1-

13) (Fig. 3-4). It would have been obvious to one of ordinary skill in the art, having the

teaching of Martin and Bates before him at the time the invention was made, to modify

the program generating system taught by Martin to include the teaching that link word

that can be modified by an on-screen pointer taught by Bates with the motivation being

to enable the system to quickly and efficiently modify the comment portion.

Regarding claim 9, Martin and Bates teaches that the link word and the data set

reside within a single window for display upon the display device (Martin, Fig. 9) (Bates,

col 8, lines 1-13) (Fig. 3-4).

Regarding claim 12, Martin teaches the data set is linked to an applications

program to form computer executable code (col 5, lines 11-15).

Regarding claim 14, Martin teaches that the data set comprises several grouping

of fields that define timing signals (1010b and 1012b).

Regarding claim 15, Martin teaches a compiler 316 for generating a data set

containing one field of bits (col 10, lines 9-16), the data set comprises a symbol "="

(1000b in Fig. 9) and hardware for generating programmable signals (col 3, lines 24-

36). Martin differs from the claim in that Martin does not teach the data set is created by

modifying a comments portion of a program. However, such feature is known in the art

as taught by Bates. Bates teaches a method for annotating a hypertext document with

comments (col. 3, lines 16-32). Bates further teaches that the comment (text) includes a

link word that can be modified by an on-screen pointer (col 8, lines 1-13) (Fig. 3-4) and

further teaches the data set is created by modifying a comments portion of a program

by activating a user-selectable link embedded within the comments portion (Fig. 6-7). It

would have been obvious to one of ordinary skill in the art, having the teaching of Martin

and Bates before him at the time the invention was made, to modify the program

generating system taught by Martin to include the teaching that the data set is created

by modifying a comments portion of a program taught by Bates with the motivation

being to generate code from the comment portions when necessary.

Regarding claim 16, Martin and Bates teach that the link is accessible by a user

via a graphical user interface (Martin, col 5, lines 51-60) (Bates, col 8, lines 1-13) (Fig.

3-4).

Regarding claim 17, Martin teaches the data set is linked to an applications

program to form computer executable code (col 5, lines 11-15).

Regarding claim 20, Martin teaches that the comments designator notes the

corresponding line of text as non-executable words separate and distinct from lines of

program commands (col 7, lines 34-39).

Regarding claim 21, Bates teaches that the link word is activated by a user of the

computer program to modify the data set (col 8, lines 1-13) (Fig. 3-4).

5.   Claims 5 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Martin, Bates, and Shulman et al ("Shulman", USP 6026233).

Regarding claim 5, Martin does not teach the use of pull-down menu in computer

programming. However, such feature is known in the art as taught by Shulman.

Shulman teaches a method for presenting and selecting options to modify a

programming language statement. Shulman discloses the generating an assisting

window that contains program related information for use by a programmer (Fig. 5-6, col

4, lines 20-24). It would have been obvious to one of ordinary skill in the art, having the

teaching of Martin and Shulman before him at the time the invention was made, to

modify the program generating system taught by Martin to include the pull-down

assisting menu window taught by Shulman with the motivation being to enable the
system to efficiently assist a computer programmer during the writing, evaluation, and
maintenance of a computer program.

Regarding claims 10-11, Martin does not teach that the link word and the data
set reside in two separate windows concurrently displayed on the display device.
However, such feature is known in the art as taught by Shulman. Shulman teaches a
method for presenting and selecting options to modify a programming language
statement. Shulman discloses displaying concurrently two windows on the display
device (Fig. 4). It would have been obvious to one of ordinary skill in the art, having the
teaching of Martin and Shulman before him at the time the invention was made, to
modify the program generating system taught by Martin to include the concurrently
display two windows taught by Shulman with the motivation being to enable the system
to efficiently present the computer program.

6.   Claims 6-7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable
over Martin, Bates, and Propster et al ("Propster", USP 4541048).

Regarding claims 6-7, Martin does not teach the defining an electrical waveform
and setting waveform descriptor commands of a programmable interface circuit.
However, such feature is known in the art as taught by Propster. Propster teaches a
modular programmable signal processor which comprises the defining an electrical
waveform and setting waveform descriptor commands of a programmable interface
circuit (Fig. 10; col 2, lines 35-37). It would have been obvious to one of ordinary skill in
the art, having the teaching of Martin and Propster before him at the time the invention
was made, to modify the program generating system taught by Martin to include the

waveform taught by Propster with the motivation being to enable the system to efficiently indicate the memory access and data of the system.

Regarding claim 13, Martin does not teach the defining an electrical waveform and setting waveform descriptor commands of a programmable interface circuit. However, such feature is known in the art as taught by Propster. Propster teaches a modular programmable signal processor which comprises the defining an electrical waveform and setting waveform descriptor commands of a programmable interface circuit (Fig. 10; col 2, lines 35-37). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Propster before him at the time the invention was made, to modify the program generating system taught by Martin to include the waveform taught by Propster with the motivation being to enable the system to efficiently indicate the memory access and data of the system.

7.   Applicant's arguments filed 01/18/07 have been considered but they are not persuasive.

Applicant argues Bates fails to teach or suggest that hypertext link may be activated to modify the comments portion of the program. The Examiner respectfully disagrees. Bates teaches creating a data set (comment list) by modifying (adding comment for a given URL) a comments portions (URL and its associated comment list) of a program (document), wherein said modifying comprises activating a user-selectable link embedded within the comment portion (hovering pointer on a hypertext link or right-clicking on a hypertext link opens a pop-up menu which allows adding comments) (col. 11, lines 20-27, lines 39-48).

Applicant argues "Bates lacks the necessary Bates lacks the necessary motivation that would enable one skilled in the art to modify the teachings of Bates to provide the aforementioned limitation". The Examiner respectfully disagrees. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, since Bates teaches that "other executable-type code may be embedded in a comment..."(col. 16, lines 1-3), it would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Bates before him at the time the invention was made, to modify the program generating system taught by Martin to include the teaching that the data set is created by modifying a comments portion of a program taught by Bates with the motivation being to generate code from the comment portions when necessary.

Applicant argues "Martin cannot be relied upon to provide teaching or suggestion for a data set, which changes dependent on modification to a link word." The Examiner respectfully disagrees. Sine the "=" symbol is used for value assignments for a data set, the change in the dataset depends on the change in value assignments.

Applicant argues "Bates does not teach or suggest that the comment text (e.g., comment text 228, Fig. 13) is preceded by a comments designator (such as the "//"

designator used in the C programming platform), as specifically required by present

claim 8". The Examiner respectfully disagrees since this argument attacks Bates

reference individually since Martin is cited for "the comment text is preceded by a

comments designator" (Martin, Fig. 9) and Bates is cited for "the comment includes a

link word that can be modified by an on-screen pointer". In response to applicant's

arguments against the references individually, one cannot show nonobviousness by

attacking references individually where the rejections are based on combinations of

references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck &*

Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues "although Bates suggests that a hypertext link (e.g., hypertext

link 234 of Fig. 13) may be included within the comment text to enable a user to

navigate to another document, Bates does not teach or suggest that the hypertext link

may be adapted for modification by the on-screen pointer, wherein modification to the

hypertext link causes a data set to change". The Examiner respectfully disagrees. Bates

teaches creating a data set (comment list) by modifying (adding comment for a given

URL) a comments portions (URL and its associated comment list) of a program

(document), wherein said modifying comprises activating a user-selectable link

embedded within the comment portion (hovering pointer on a hypertext link or right-

clicking on a hypertext link opens a pop-up menu which allows adding comments) (col.

11, lines 20-27, lines 39-48).

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kieu D. Vu.

The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at

571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cabeca, can be reached at 571-272-4048.

The fax phone numbers for the organization where this application or proceeding

is assigned are as follows:

571-273-8300

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL"

or "DRAFT" communication. Examiners may request that a formal paper / amendment

be faxed directly to them on occasions).

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703-305-

3900).

Kieu D. Vu

Primary Examiner.